

INSPECTOR'S STATEMENT- Event Violation
Minerals Regulatory Program

Company/Mine: CE Butters Realty & Const. / Unpermitted mine
Permit #: S/005/0004

Violation #MC-2013-17-03

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation**. Mark and explain each event.

- ☒ a. Activity outside the approved permit area.
- ☐ b. Injury to the public (public safety).
- ☒ c. Damage to property.
- ☒ d. Conducting activities without appropriate approvals.
- ☒ e. Environmental harm.
- ☐ f. Water pollution.
- ☒ g. Loss of reclamation/revegetation potential.
- ☐ h. Reduced establishment, diverse and effective vegetative cover.
- ☐ i. Other.

Explanation: The operator was conducting mining activities without first obtaining a permit or posting a reclamation surety. 3.9 acres are currently disturbed. There was no evidence that topsoil had been salvaged and stockpiled for reclamation. There was a significant oil spill (approx 10-ft x 6-ft).

2. Has the event or damage occurred? **Yes**

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: 3.9 acres have been disturbed, there is no apparent topsoil for reclamation. A small portion of the area has been contaminated with a significant oil spill. The Division has no surety for this site to reclaim the area if the operator fails to do so.

3. Did any damage occur as a result of the violation? **Yes**

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: 3.9 acres of disturbance. Soil contamination.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- ☐ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: _____

- ☒ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: The operator had recently completed permitting a mine site at another location. He should have been aware that a mining permit was required for this site as well and should have submitted an NOI and bond prior to beginning operations. This would lead one to conclude a greater degree of fault than mere negligence.

____ Was the operator in violation of a specific permit condition?

Explanation: ____

____ Has DOGM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: ____

X Was any economic benefit gained by the operator for failure to comply? Yes If yes explain.

Explanation: The operator did not post a surety, pay permit fees, or provide a NOI. All of which gives the operator a financial benefit.

GOOD FAITH This CO has not yet been abated. Good Faith Evaluation is not appropriate.

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: ____

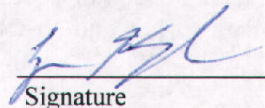
2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: ____

3. Was the submission of plans prior to physical activity required by this NOV/CO? ____ If yes, explain.

Explanation: ____

Lynn Kunzler
DOGM Inspector


Signature

July 31, 2013
Date